

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 MIRLA PALMA,

No. C-08-4780 MMC

12 Plaintiff,

**ORDER DENYING PLAINTIFF'S MOTION
FOR PERMISSION TO FILE MOTION
FOR RECONSIDERATION; VACATING
CASE MANAGEMENT CONFERENCE**

13 v.

14 HOMECOMINGS, et. al.,

15 Defendants

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17 By order filed December 29, 2008, the Court dismissed plaintiff Mirla Palma's
18 Second Amended Complaint ("SAC"), for the reason such plaintiff failed to state therein a
19 claim upon which relief could be granted, and dismissed the action, finding that affording
20 plaintiff further leave to amend would be futile. In said order, the Court also observed that
21 the SAC was subject to being stricken, because plaintiff had failed to file a motion to
22 amend; the Court nonetheless "exercise[d] its discretion to consider the SAC on the merits,
23 in the interests of judicial economy." (See Order, filed December 29, 2008, at 1.)

24 Now before the Court is plaintiff's "Motion for Permission to File a Motion for
25 Reconsideration," filed January 6, 2009. Plaintiff, acknowledging therein that she should
26 have sought permission to file the SAC, seeks permission to file a motion "so that she may
27 file the amended second amended complaint." To the extent plaintiff is seeking leave to file
28 the SAC, the motion is hereby DENIED as moot, because the Court, as noted, did consider

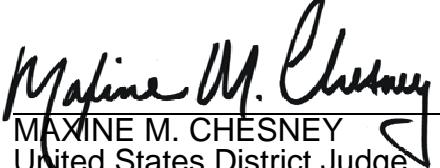
1 the SAC on its merits and did not strike the SAC. To the extent plaintiff is seeking leave to
2 amend the SAC, i.e., to file a Third Amended Complaint, the motion is hereby DENIED, as
3 plaintiff has failed to show any cognizable basis exists to reconsider the Court's finding that
4 further amendment would be futile.

5 Also before the Court is plaintiff's "Affidavit in Support of Opposition to [Defendants']
6 Motion to Dismiss for Failure to State a Claim," filed January 6, 2009. Defendants,
7 however, have not filed a motion to dismiss.

8 Finally, in light of the final judgment entered December 29, 2008, the February 20,
9 2009 Case Management Conference is hereby VACATED.

10 **IT IS SO ORDERED.**

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12 Dated: January 13, 2009


MAXINE M. CHESNEY
United States District Judge

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